



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

application of  
Hun-Jan Tao

Serial No.: 10/783,583

Filed: Feb. 20, 2004

For: Optical Scatterometry Method of Sidewall Spacer Analysis

Attorney Docket No.: 67,200-1269

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop: Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

Date: July 1, 2004

  
Kathy Dixon

TRANSMITTAL OF DECLARATION AND ASSIGNMENT

Mail Stop: Missing Parts  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to the Notice to File Missing Parts of Nonprovisional Application dated May 13, 2004, enclosed herewith for filing is an executed declaration, assignment and assignment recordal sheet. Also enclosed is a copy of the Notice to File Missing Parts of Application, credit card payment forms in the amount of \$130.00 and \$40.00 to cover the required fee for late filing of the declaration and the assignment recordal fee. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 50-0484.

Respectfully submitted,

TUNG & ASSOCIATES

By 

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67,200-1269  
2003-0896



### DECLARATION FOR PATENT APPLICATION

As a below-named inventor, We hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

#### OPTICAL SCATTEROMETRY METHOD OF SIDEWALL SPACER ANALYSIS

the specification of which \_\_\_\_\_ is attached hereto.

  X   was filed on Feb. 20, 2004 as

Application Serial No. 10/783,583

And was amended on \_\_\_\_\_

(If applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendments referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56, a copy of which is attached.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent on inventor's certificate having a filing date before that of the application on which priority is claimed:

#### Prior Foreign Application(s)

#### Priority Claimed

Number	Country	Day/Month/Year	(Yes)	(No)
Number	Country	Day/Month/Year	(Yes)	(No)
Number	Country	Day/Month/Year	(Yes)	(No)

67,200-1269

2003-0896

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

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Application Serial No.	Filing Date	Status
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I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below.

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Application Number	Filing Date
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I further declare that I do not know and do not believe that the invention claimed in this application was ever known or used by others in this country before my invention thereof, or patented or described in any printed publication in any country before my invention thereof, or more than one year prior to this application or any prior U.S. application above identified in which said invention may have been disclosed, or in public use or on sale in the United States of America for more than one year prior to this application or any prior U.S. application above identified in which said invention may have been disclosed.

#### **POWER OF ATTORNEY**

And I hereby appoint as my attorneys with full power of substitution to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith to the firm of **TUNG & ASSOCIATES**, including the following individual attorneys associated with the firm:

**Individual Attorney**

Randy W. Tung

**Reg. No.**

31,311

Please send all correspondence concerning this application to the following address:

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application and of any patent issued thereon.

Full name of first joint inventor

HUN-JAN

TAO

First

Middle

Last

Inventor's Signature

Date

Residence

Citizenship

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#### §1.56 Duty to disclose information material to patentability

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application; and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a *prima facie* case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A *prima facie* case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent or inventor.

(35 U.S.C. 6, Pub. L. 97-247)

[42 FR 5593, Jan. 28, 1977, as amended at 47 FR 21751, May 19, 1982; 48 FR 2710, Jan. 20, 1983; 49 FR 554, Jan. 4, 1984; 50 FR 5171, Feb. 6, 1985; 53 FR 47808, Nov. 28, 1988, effective Jan. 1, 1989; 57 FR 2034, January 17, 1992, effective March 6, 1992]